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July 24, 2006

BY E-FILING

The Honorable Joseph J. Farnan, Jr.
United States District Court
844 King Street
Wilmington, DE 19801

Re: Affymetrix, Inc. v. Illumina Inc., C.A. No. 04-CV-901 JJF

Dear Judge Farnan:

I write on behalf of plaintiff in the above-referenced matter to request that the Court hold a status conference to discuss the schedule in this case, particularly with respect to expert discovery.

Trial in this case is set to commence on October 16, 2006. The Scheduling Order originally entered by the Court provided that the Markman hearing would be held on March 8, 2006, opening expert reports would be served on April 11th, rebuttal expert reports would be served on May 12th and expert discovery would close on June 23rd.

On February 10, 2006, the Court issued an amended Scheduling Order, moving the Markman Hearing several weeks and stating: "So that the parties experts will have the benefit of the Court's claim construction, the expert report due date will be moved to twenty (20) days after receipt of the Court's claim construction order."

While having the benefit of the Court's claim construction prior to commencing expert discovery may be desirable,¹ Affymetrix requests that the Court allow expert discovery to go forward in the absence of a Markman ruling – as contemplated by the original Scheduling Order and as happens in the majority of patent cases. Affymetrix's request is based on

¹ Illumina has informed us that it would prefer to adhere to the current schedule and await the Court's claim construction determination before embarking on expert discovery.

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scheduling and planning problems a more open-ended schedule is causing for our expert witnesses, as well as a desire to hold the trial date in this case.

Affymetrix is available at the Court's convenience – whether in person or by teleconference – to discuss the schedule in this case.

Respectfully,

/s/ Maryellen Noreika (#3208)

Maryellen Noreika

MN/bls

cc: Peter T. Dalleo, Clerk (By Hand)
Richard K. Herrmann, Esquire (By Hand)
Marcus E. Sernel, Esquire (By Fax)
Daniel R. Reed, Esquire (By Email)